UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

: MDL NO. 2342

IN RE: ZOLOFT (SERTRALINE :

HYDROCHLORIDE) PRODUCTS : 2: 12-MD-2342-CMR

LIABILITY LITIGATION :

HON. CYNTHIA M. RUFE

THIS DOCUMENT RELATES TO:
ALL ACTIONS

ALL ACTIONS

<u>PLAINTIFFS' MOTION TO STRIKE PFIZER'S MOTION FOR LEAVE TO FILE A</u> <u>MOTION FOR SUMMARY JUDGMENT UNDER THE STANDARD APPROACH</u>

Plaintiffs respectively move this Court to strike Pfizer's Motion for Leave to file its Motion for Summary Judgment Under the Standard Approach on the basis that such a request (again) violates the Court's orders staying all proceedings in MDL 2342.

As grounds, Plaintiffs state as follows:

- 1. On July 1, 2014, the Court entered an order staying all proceedings except with respect to two specific issues, neither of which concerned the filing of summary judgment motions. *See* PTO 66.
- 2. Ignoring the stay, Pfizer filed its *first* motion for leave to file summary judgment in August 2014 [Doc. No. 1041]. The Court summarily denied the motion as having been filed in violation of the stays established in PTO 66 and extended in PTO 69. *See* Order 8/22/14.
- 3. The Court has subsequently lifted the stay for very specific and enumerated reasons, none of which concern summary judgment motions. For example, following a leadership status conference in August 2014 the Court lifted the stay for the specific purpose of allowing Plaintiffs to file their motion to add additional expert(s) on general causation and for responses and sur-replies to be filed. *See* PTO 72. And, the Court specifically stated that the stay would remain in place "until further Order of the Court." *Id.* No mention whatsoever was made at that conference about lifting the stay for the purpose of allowing Pfizer to file a summary judgment motion. The Court also agreed to lift the stay on the *joint* request of counsel for the limited purpose of allowing for cross-noticing depositions in other Zoloft related litigations. *See* PTO 75. In all other substantial respects, the stay has remained in force.
- 4. Pfizer has now filed its *second* motion for leave to file summary judgment in direct violation of the stay, acknowledging in its preliminary statement that it is being filed in violation of the stay and despite the fact that the court denied the same motion for

leave in August. And like the first motion it filed in violation of the stay, the present motion was filed without any attempt to meet and confer and without any advance notice to Plaintiffs' counsel.

5. There is no justifiable excuse for Pfizer's repeated, blatant violations of the Court's orders regarding the stay.

For the foregoing reasons, Pfizer's Motion for Leave to File its Motion for Summary Judgment Under the Standard Approach should be (again) stricken as having been filed in violation of the stays established in PTO 66 and extended in PTO 69.

Dated: October 30, 2014

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Respectfully submitted,

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